

1 JOHN D. MOORE, Nevada State Bar No. 8581
2 jdmoore@springerlawnevada.com
3 **LAW OFFICES OF MICHAEL B. SPRINGER, PC**
4 9628 Prototype Court
5 Reno, NV 89521
6 Telephone: (775) 786-7445
7 *Attorneys for Plaintiff and Counterdefendant*
8 NATIONAL RAILROAD PASSENGER CORPORATION and *Counterdefendant and*
9 *Counterclaimant* UNION PACIFIC RAILROAD COMPANY

10 B. CLYDE HUTCHINSON, Calif. State Bar No. 037526
11 bch@llcllp.com

12 JOHN W. RANUCCI, Calif. State Bar No. 184801
13 jwr@llcllp.com

14 VINCENT CASTILLO, Calif. State Bar No. 209298
15 vcastillo@llcllp.com

16 LIZA SIU MENDOZA, Calif. State Bar No. 242493
17 lsiumendoza@llcllp.com

18 **LOMBARDI, LOPER & CONANT, LLP**

19 Lake Merritt Plaza
20 1999 Harrison Street, Suite 2600
21 Oakland, CA 94612-3541

22 Telephone: (510) 433-2600
23 Facsimile: (510) 433-2699

24 *Attorneys for Plaintiff and Counterdefendant*
25 NATIONAL RAILROAD PASSENGER CORPORATION and *Counterdefendant and*
26 *Counterclaimant* UNION PACIFIC RAILROAD COMPANY

27 STEVEN T. JAFFE, Nevada State Bar No. 007035
28 sjaffe@lawhjc.com

29 **HALL JAFFE & CLAYTON, LLP**
30 7455 West Washington Avenue, Suite 460

31 Las Vegas, NV 89128
32 Telephone: (702) 316-4111

33 Facsimile: (702) 316-4114
34 *Attorneys for Defendant*

35 JOHN DAVIS TRUCKING COMPANY, INC.

36 GARY E. DI GRAZIA, Nevada State Bar No. 000198
37 gdigrazia@frontiernet.net

38 **GOICOECHEA, DI GRAZIA, COYLE & STANTON, LTD.**
39 530 Idaho Street

40 P.O. Box 1358
41 Elko, NV 89801

42 Telephone: (775) 738-8091
43 Facsimile: (775) 738-4220

44 *Attorneys for Counterclaimant*
45 JOHN DAVIS TRUCKING COMPANY, INC.

<input checked="" type="checkbox"/> FILED	RECEIVED
<input type="checkbox"/> ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
JAN 19 2011	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

LOMBARDI, LOPER & CO NANT, LLP

Lake Merritt Plaza
1999 Harrison Street, Suite 2600
Oakland, CA 94612 -3541

1 STEPHEN C. THOMPSON, Oregon State Bar No. 0076359
steve@ktp-law.com
2 GEORGE KIRLIN, Oregon State Bar No. 0062046
george@ktp-law.com
3 KIRKLIN THOMPSON & POPE LLP
1100 Yeon Building
4 522 SW 5th Avenue
Portland, OR 97204
5 Telephone: (503) 222-1640
Facsimile: (503) 227-5251
6 *Attorneys for Counterclaimant*
JOHN DAVIS TRUCKING COMPANY, INC.
7
8
9
10
11

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

12 NATIONAL RAILROAD PASSENGER
CORPORATION,

13 Plaintiff,

14 v.

15 JOHN DAVIS TRUCKING COMPANY,
INC., a Nevada corporation,

16 Defendant.

17 JOHN DAVIS TRUCKING COMPANY,
INC., a Nevada Corporation,

18 Counterclaimant,

19 v.

20 NATIONAL RAILROAD PASSENGER
CORPORATION, UNION PACIFIC
RAILROAD COMPANY, and DOES 1-5,

21 Counter-Defendants.

22 Case No. 3:11-cv-00461 HDM VPC

23 **JOINT CASE MANAGEMENT
STATEMENT**

24 Date: January 20, 2012

Time: 9:00 a.m.

Ctrm: 1

Judge: The Honorable Valerie P. Cooke,
U.S. Magistrate Judge

LOMBARDI, LOPER & CO
NANT, LLP
Lake Merritt Plaza
1999 Harrison Street, Suite 2500
Oakland, CA 94612
-3541

1 TO THE HONORABLE VALERIE P. COOKE, U.S. MAGISTRATE JUDGE:

2 COME NOW the parties who have appeared in this action and submit the following Joint
3 Case Management Statement pursuant to the Minutes of the Court filed on November 8, 2011
4 (Doc 60).

5 **CASE MANAGEMENT REPORT**

6 **Completion of Inspection and Commencement of Written Discovery**

7 The parties inspected the locomotives on January 5, 2012 in Chicago as planned. The
8 parties will be engaging in written discovery in the next few weeks.

9 **Issues Pertaining to Locomotive Videos and Event Recorder Data**

10 John Davis Trucking raised the following two issues with counsel for National Railroad
11 Passenger Corporation (“Amtrak”) on January 17, 2012. However, because counsel for Amtrak
12 is engaged in another case in Fresno, California, for the remainder of the week, the parties intend
13 to further meet and confer on these issues on the week of January 23, 2012. The following two
14 issues are as follows:

15 1. **Locomotive Videos:** John Davis Trucking Company seeks the “original” locomotive
16 video images because it claims the encryption format in which they were produced to
17 it makes meaningful analysis of the video impossible. According to John Davis
18 Trucking, the encryption software takes over all operations on the computer to which
19 the video disc is installed and any attempt to analyze the video images results in an
20 error message and the cessation of the play. John Davis Trucking claims the video
21 cannot be stopped and started frame by frame and that there is no manner in which to
22 analyze the speed rate at which the images were recorded or are being played. It
23 further claims the image quality of the videos is poor, particularly given the high
24 resolution quality of the camera system on-board the locomotives. John Davis
25 Trucking claims critical information about the position of the crossing gates is not
26 visible. It believes these difficulties appear due to the encryption software into which
27 Amtrak or its subcontractor placed the video images.

28 2. **Event Recorder Data:** John Davis Trucking Company also seeks the “original” event

LOMBARDI, LOPER & CO NANT, LLP
Lake Merritt Plaza
1999 Harrison Street, Suite 2500
Oakland, CA 94612 -3541

1 recorder data because it believes the event recorder device on-board both locomotives
2 are of a type and manufacture that renders them susceptible to manipulation

3 State Court Related Cases

4 With respect to state court cases, the parties have completed an Early Case Conference
5 pursuant to Rule 16.1 of the Nevada Rules of Civil Procedure in the following cases:

- 6 ○ *Lana Dickerson v. John Davis Trucking and National Railroad Passenger*
7 *Corporation*, Second Judicial District of the State of Nevada, Case No. CV11-
8 01969, and
- 9 ○ *William Knox v. John Davis Trucking*, Second Judicial District of the State of
10 Nevada, Case No.: CV11-01992.

11 In addition, National Railroad Passenger Corporation and John Davis Trucking Company
12 have been served and will be appearing in the following cases:

- 13 ○ *Evelyn Johnson v. John Davis Trucking and National Railroad Passenger*
14 *Corporation*, Second Judicial District of the State of Nevada, Case No. CV11-
15 02674, and
- 16 ○ *Ronald Werckenthien v. John Davis Trucking and National Railroad Passenger*
17 *Corporation*, Second Judicial District of the State of Nevada, Case No. CV11-
18 02673.

19 Furthermore, John Davis Trucking has been served and will be appearing in:

- 20 ○ *Kyung Ran You, Hyung Wong Park and Keun Park v. John Davis Trucking*
21 *Company*, Second Judicial Distict of the State of Nevada, Case No. CV12-00089.

22 The parties have been in discussion with plaintiffs' counsels in these cases for the
23 purpose of coordinating discovery efforts. It is expected that more cases will be filed and/or
24 served in the next few months.

25 Request to Vacate Case Management Conference

26 The parties will continue to meet and confer on the issues discussed above. The parties
27 stipulate to vacate the Case Management Conference scheduled for January 20, 2012 at 9:00 a.m.
28 Should the parties not be able to resolve the issues above, the parties will file appropriate

1 motions and ask the Court to schedule a briefing schedule and oral argument as necessary and
2 convenient to the Court's schedule.

3 DATED this 18th day of January, 2012.
4

5 LAW OFFICES OF MICHAEL B. SPRINGER, PC
6

7 By: /s/ John D. Moore
John D. Moore
8 Nevada State Bar No. 8581
9 9628 Prototype Court
Reno, NV 89521
(775) 786-7445
10 *Attorneys for Plaintiff and Counterdefendant*
11 NATIONAL RAILROAD PASSENGER
CORPORATION *and Counterdefendant*
and Counterclaimant UNION PACIFIC
12 RAILROAD COMPANY
13

14 DATED this 18th day of January, 2012.
15

16 LOMBARDI, LOPER & CONANT, LLP
17

18 By: /s/ B. Clyde Hutchinson
B. Clyde Hutchinson
19 California State Bar No. 037526
Lake Merritt Plaza
20 1999 Harrison Street, Suite 2600
Oakland, CA 94612-3541
(510) 433-2600
21 *Attorneys for Plaintiff and Counterdefendant*
22 NATIONAL RAILROAD PASSENGER
CORPORATION *and Counterdefendant*
and Counterclaimant UNION PACIFIC
23 RAILROAD COMPANY
24

25 DATED this 18th day of January, 2012.
26

27 HALL JAFFE & CLAYTON, LLP
28

29 By: /s/ Steven T. Jaffe
Steven T. Jaffe
30 Nevada State Bar No. 007035
7455 West Washington Avenue, Suite 460
Las Vegas, NV 89128
31

1 (702) 316-4111
2 *Attorneys for Defendant*
3 JOHN DAVIS TRUCKING COMPANY,
4 INC.

5 DATED this 18th day of January, 2012.
6

7 GOICOECHEA, DI GRAZIA, COYLE &
8 STANTON, LTD.
9

10 By: /s/ Gary E. Di Grazia
11 Gary E. Di Grazia
12 Nevada State Bar No. 000198
13 530 Idaho Street
14 P.O. Box 1358
15 Elko, NV 89801
16 (775) 738-8091
17 *Attorneys for Counterclaimant*
18 JOHN DAVIS TRUCKING COMPANY,
19 INC.

20 DATED this 18th day of January, 2012.
21

22 KIRKLIN THOMPSON & POPE LLP
23

24 By: /s/ Stephen C. Thompson
25 Stephen C. Thompson
26 Oregon State Bar No. 0076359
27 1100 Yeon Building
28 522 SW 5th Avenue
Portland, OR 97204
Telephone: (503) 222-1640
Facsimile: (503) 227-5251
Attorneys for Counterclaimant
JOHN DAVIS TRUCKING COMPANY,
INC

LOMBARDI, LOPER & CO NANT, LLP
Lake Merritt Plaza
1999 Harrison Street, Suite 2600
Oakland, CA 94612 -3541

1 **[PROPOSED] ORDER**

2 Per the parties Joint Case Management Statement, the Court hereby vacates the Case
3 Management Conference scheduled for January 20, 2012 at 9:00 a.m. in Courtroom 1.

4

5 IT IS SO ORDERED.

6

7 DATED: January 19, 2012

8 By:

9 THE HONORABLE VALERIE P. COOKE
10 UNITED STATES MAGISTRATE JUDGE

11 LOMBARDI, LOPER & CO NANT, LLP
12 Lake Merritt Plaza
13 1999 Harrison Street, Suite 2600
14 Oakland, CA 94612 -3541

15
16
17
18
19
20
21
22
23
24
25
26
27
28